

REMARKS

The Examiner is thanked for withdrawing the prior claim objections under 35 USC §112.

Claims 1-11 are rejected under 35 USC §103(a). Claim 9 has been cancelled. Reconsideration is requested with respect to the remaining claims.

A determination regarding alleged obviousness under 35 USC §103(a) requires an analysis of the “scope and content” of the cited art.

Stannard discloses flight bidding system for airline personnel that enables users of the system (employees) to evaluate published bid line data. A “bid line” is a sequence of flights to various destinations, associated layovers, pay credit hours, flights times, airport arrival and departure times, and the like. The patent describes the known bidding process at the time: “[i]n the bidding process, the various flight personnel ... submit bids for selected bid lines of their choice. The flight assignments are then made by the airline on a seniority basis...” (C1L7-25) Stannard’s invention was an improvement to that system that enabled individual subscribing employees to use a touch-tone telephone (or home PC) to identify his or her preferences with respect to several predefined bid selection criteria, and the order of importance, to that employee, of such criteria. Upon publication of the bid line selections, each of the bid lines was then subjected to “computer analysis” against each of the preferences and priorities for each subscribing employee. Thus, a bid line meeting a first priority selection of an employee was assigned a greater value than one meeting a lower priority. Each and every bid line was analyzed for each subscribing employee; for each such employee, the published bid lines were sorted and an output generated. The output was a “predetermined number of recommended bids, with the first such recommended bid representing a bid line incorporating the maximum preference selections of the employee adjusted in each case for the priority indicated by the subscriber.” (C1L60 – C2L22) The system thus analyzed each of the published bid lines against each subscriber’s selection criteria, and the technique derived “a schedule of proposed bid lines for bid line balloting” (claim 1 preamble).

O’Brien describes a system and method for online scheduling and shift management that assigns employees to shifts while accommodating factors including

staffing requirements, employee preferences, and other settings based on forecasting. Figure 4 illustrates the basic process, which is a basic aspect of known workforce management systems. The patent is relied upon for its teaching of “utilizing a give[n] time period” for the scheduling bidding process described in Stannard.

O’Brien, at C3L38-50, describes that both managers and employees can use the system. Further, the manager has the ability to define a schedule, which, in turn, sets forth the times, dates, and requirements for the shifts to be handled by the employees. The manager and the employees access the system through the Internet, and each individual has a user identification number (userid) and a password. Associated with each userid is a set of permissions that define the features available to the user.

Turning to the “differences” between the claimed invention and the cited references, claim 1 as now amended recites the following subject matter (with emphasis added):

“during a given time period, each of a set of entities, irrespective of their seniority or ranking in the work environment, using an associated client computer to identify, from a plurality of schedule pattern sets that are predetermined for the entity, a given schedule pattern set and to identify a set of one or more bids with respect to one or more schedules that are associated with that given schedule pattern set, the scheduled pattern sets being predetermined based on an attribute associated with the entity, wherein at least first and second entities having access to the schedule pattern sets view and bid on different schedule pattern sets.”

While this subject matter has not been previously claimed, the Examiner has taken the position (with respect to prior claim 10) that O’Brien’s restricting of the system to those with “login/password” is pertinent to the subject matter of having a supervisor configure schedules/schedule patterns. With respect, the subject matter of amended claim 1 indicates that an entity (e.g., an employee) identifies a schedule pattern set from “a plurality of schedule patterns sets that are predetermined” for that entity, where the sets are predetermined “based on an attribute associated with the entity.” Further, at least first and second entities view and bid on different pattern sets. Thus, according to the amended claim, individual “first” and “second” entities (employees) view and bid on

schedule pattern sets that have been – in effect - “customized” for them (preferably by a supervising entity, such as recited in dependent claim 10). In this manner, the system as a whole is much easier to use and provides efficient schedule bidding although different entities have different status (e.g., see, claim 12), skills (e.g., see, claim 13) or seniority (e.g., see, claim 14). O’Brien simply uses login/password to control who (manager or employee) can access the system; the reference does not disclose that individual employees view and bid on schedule pattern sets that are predetermined for them based on an “attribute.”

“[E]very limitation positively recited in a claim must be given effect in order to determine what subject matter that claim defines.” *In re Wilder*, 429 F.2d 447, 450 (CCPA 1970); *See also In re Wilson*, 424 F. 2d 1382, 1385 (CCPA 1970) (“[a]ll words in a claim must be considered in judging the patentability of that claim against the prior art.”).

A test for obviousness is what the combined teachings of the references would have suggested to those of ordinary skill in the art. Here, the “combined teachings” of Stannard and O’Brien describe a computer system that over a given time period (O’Brien) receives subscriber preference data, analyzes each of a set of published bid lines against each subscriber’s selection criteria and, in response, derives a schedule of proposed bid lines for subsequent bid line balloting (Stannard). Access to the system is based on login/password of authorized individuals (O’Brien).

Here, the Stannard/O’Brien art does not disclose or suggest the particular subject matter referenced above. Thus, each claim “as a whole” is not found in the combined teachings of the references, and the claimed subject matter satisfies the requirements of 35 USC §103(a).

Dependent claims 2-8 are patentable for the same reasons advanced with respect to claim 1 from which they depend.

New dependent claims 12-14 recite that the “attribute” of claim 1 is employment status, skill level, or a seniority level. These claims should be found to be allowable for this additional reason.

Reconsideration and favorable action are requested.

Respectfully submitted,

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